

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**INHALE, INC., A CALIFORNIA  
CORPORATION;**

**Plaintiff,**

**v.**

**GRAVITRON, LLC, A TEXAS  
COMPANY;**

**Defendant.**

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**CIVIL NO. 1:18-CV-00762-ADA**

**ORDER ADOPTING MAGISTRATE  
JUDGE’S REPORT AND RECOMMENDATION**

Before the Court is the Report and Recommendation of United States Magistrate Judge Mark P. Lane. ECF No. 126. The Report recommends that this Court deny Plaintiff’s Motion for Summary Judgment as to Defendant’s Third Affirmative Defense and Second Counterclaim. The Report and Recommendation was filed on September 8, 2023.

A party may file specific, written objections to the proposed findings and recommendations of the magistrate judge within fourteen days after being served with a copy of the report and recommendation, thereby securing *de novo* review by the district court. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A district court need not consider “[f]rivolous, conclusive, or general objections.” *Battle v. U.S. Parole Comm’n*, 834 F.2d 419, 421 (5th Cir. 1987) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), *overruled on other grounds by Douglass v. United States Auto. Ass’n*, 79 F.3d 1415 (5th Cir. 1996)).

Plaintiff filed objections on September 14, 2023. ECF No. 128. The Court has conducted a *de novo* review of the motion to dismiss and motion to remand, the responses, the report and recommendation, the objections to the report and recommendation, and the applicable laws. After

that thorough review, the Court is persuaded that the Magistrate Judge's findings and recommendation should be adopted.

**IT IS THEREFORE ORDERED** that the Report and Recommendation of United States Magistrate Judge Lane, ECF No. 126, is **ADOPTED**.

**IT IS FURTHER ORDERED** that Plaintiff's objections are **OVERRULED**.

**IT IS FINALLY ORDERED** that Plaintiff's Motion for Summary Judgment as to Defendant's Third Affirmative Defense and Second Counterclaim (ECF No. 101) is **DENIED** in accordance with the Report and Recommendation.

SIGNED this 2nd day of November, 2023.

A handwritten signature in black ink, reading "Alan D. Albright". The signature is written in a cursive, flowing style. The first name "Alan" is written in a larger, more prominent script, followed by "D." and "Albright". The signature is positioned above a horizontal line.

**ALAN D ALBRIGHT**  
**UNITED STATES DISTRICT JUDGE**